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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,672	01/24/2002	T. Terrence Clancy	062891.0670	3622

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EXAMINER
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BAYARD, DJENANE M

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/057,672

Applicant(s)

CLANCY ET AL.

Examiner

Djenane M. Bayard

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/24/02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3-4, 6-8, 10-11, 13-15, 17-18 and 20-22 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application No. 2002/0012329 to Atkinson et al.

a. As per claims 1, 8, 15 and 22, Atkinson et al teaches a system for dynamically modifying functionality in a configurable communications protocol stack, comprising: a system controller operable to communicate new protocol stack software to an interface device for purposes of modifying existing protocol stack software operating on the interface device (See page 2, paragraph [0014]); and the interface device, coupled to a plurality of telephony resources and operable to: operate a protocol stack comprising the existing protocol stack software, the example protocol stack software operable to process events associated with connections initiated subsequent to the existing protocol stack software being activated for new connections; receive the new protocol stack software from the system controller, the new protocol stack software operable to process events associated with connections initiated subsequent to the new protocol

stack software being activated for new connections (See page 3, paragraph [ 0023]); activate the new protocol stack software for new connections, the existing protocol stack software continuing to process all events associated with connections initiated before the new protocol stack software was activated, the new protocol stack software processing all events associated with connections initiated after the new protocol stack software was activated; and remove the existing protocol stack software upon completion of all connections initiated before the new protocol stack software was activated, services provided to the telephony resources being substantially uninterrupted by the modification (See page 4, paragraph [0035]).

b. As per claims 3, 10 and 17, Atkinson et al teaches the claimed invention as described above. Furthermore, Atkinson et al teaches wherein modifying protocol stack functionality in a configurable communications protocol stack comprises at least one of: upgrading the existing protocol stack software with the new protocol stack software, the new protocol stack software being a different version of the same protocol variation as the existing protocol stack software; and replacing the existing protocol stack software with the new protocol stack software, the new protocol stack software being a different protocol variation than the existing protocol stack software (See page 7, paragraph [0056]).

c. As per claims 4, 11 and 18, Atkinson et al teaches the claimed invention as described above. Furthermore, Atkinson et al teaches wherein the new protocol stack software comprises an entire protocol stack (See page 4, paragraph [0035]).

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d. As per claims 6, 13 and 20, Atkinson et al teaches the claimed invention as described above. Furthermore, Atkinson et al teaches wherein: the protocol stack comprises a local data link layer interface portion associated with a local call agent and a network layer interface portion associated with a remote call agent; and functionality associated with the local data link layer interface and network layer interface portions may be independently modified (See page 7, paragraph [0056])

e. As per claims 7, 14 and 21, Atkinson et al teaches the claimed invention as described above. Furthermore, Atkinson et al teaches wherein a first stack management process manages modifications to the local data link layer interface portion and a second stack management process manages modifications to the network layer interface portion (See page 7, paragraph [0056])

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent Application No. 2002/0012329 to Atkinson in view of U.S. Patent Application No.

2004/0221170 to Colvin.

a. As per claims 2, 9 and 16, Atkinson et al teaches the claimed invention as described above. However, Atkinson et al fails to teach wherein the interface device comprises a stack management process and each portion of the protocol stack that may be dynamically modified is associated with a unique functionality identification key, the stack management process operable to compare a functionality identification key of the new protocol stack software with a functionality identification key of the existing protocol stack software; if the functionality identification key of the new protocol stack software is not already active, activate the new protocol stack software for all future connections, the new protocol stack software being entirely new to the system; if the functionality identification key of the new protocol stack software is already active, activate the new protocol stack software and deactivate the existing protocol stack software, the new protocol stack software being an upgrade, replacement, or other modification of the existing protocol stack software.

Colvin teaches a system and method for monitoring software. Furthermore, Colvin teaches the interface device comprises a stack management process and each portion of the protocol stack that may be dynamically modified is associated with a unique functionality identification key, the stack management process operable to compare a functionality identification key of the new protocol stack software with a functionality identification key of the existing protocol stack software; if the functionality identification key of the new protocol stack software is not already active, activate the new protocol stack software for all future connections, the new protocol stack software being entirely new to the system; if the functionality identification key of the new protocol stack software is already active, activate the new protocol

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stack software and deactivate the existing protocol stack software, the new protocol stack software being an upgrade, replacement, or other modification of the existing protocol stack software (See page 5, paragraph [0050]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the interface device comprises a stack management process and each portion of the protocol stack that may be dynamically modified is associated with a unique functionality identification key, the stack management process operable to compare a functionality identification key of the new protocol stack software with a functionality identification key of the existing protocol stack software; if the functionality identification key of the new protocol stack software is not already active, activate the new protocol stack software for all future connections, the new protocol stack software being entirely new to the system; if the functionality identification key of the new protocol stack software is already active, activate the new protocol stack software and deactivate the existing protocol stack software, the new protocol stack software being an upgrade, replacement, or other modification of the existing protocol stack software as taught by Colvin in the claimed invention of Atkinson et al in order to monitor, meter or audit networked computer (See page 1, paragraph [0015]).

5. Claims 5, 12 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. 2002/0012329 to Atkinson in view of U.S. Patent No. 6,658,090 to Harjunen et al.

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a. As per claims 5, 12 and 19, Atkinson et al teaches the claimed invention as described above. However, Atkinson et al fails to teach wherein the protocol stack is an integrated services digital network (ISDN) protocol stack and the interface device is an ISDN interface device.

Harjunen et al teaches a wherein the protocol stack is an integrated services digital network (ISDN) protocol stack and the interface device is an ISDN interface device.

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the protocol stack is an integrated services digital network (ISDN) protocol stack and the interface device is an ISDN interface device as taught by Harjunen et al in the claimed invention of Atkinson et al in order to

6. Claim 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. 2002/0012329 to Atkinson in view of U.S. Patent Application No. 2004/0221170 to Colvin and further in view of U.S. Patent No. 6,658,090 to Harjunen et al.

a. As per claim 23, Atkinson et al teaches a system for dynamically modifying functionality in a configurable communications protocol stack, comprising: a system controller operable to communicate new protocol stack software to an interface device for purposes of modifying existing protocol stack software operating on the interface device (See page 2, paragraph [0014]); and the interface device, coupled to a plurality of telephony resources and operable to: operate a protocol stack comprising the existing protocol stack software, the example protocol stack software operable to process events associated with connections initiated subsequent to the existing protocol stack software being activated for new connections; receive



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the new protocol stack software from the system controller, the new protocol stack software operable to process events associated with connections initiated subsequent to the new protocol stack software being activated for new connections (See page 3, paragraph [ 0023]); activate the new protocol stack software for new connections, the existing protocol stack software continuing to process all events associated with connections initiated before the new protocol stack software was activated, the new protocol stack software processing all events associated with connections initiated after the new protocol stack software was activated; and remove the existing protocol stack software upon completion of all connections initiated before the new protocol stack software was activated, services provided to the telephony resources being substantially uninterrupted by the modification (See page 4, paragraph [0035]). However, Atkinson et al fails to teach wherein the interface device is an ISDN interface device and wherein the stack management process operable to compare a functionality identification key of the new ISDN protocol stack software with a functionality identification key of the existing ISDN protocol stack software and: if the functionality identification key of the new ISDN protocol stack software is not already active, activate the new ISDN protocol stack software for all future ISDN connections, the new ISDN protocol stack software being entirely new to the system and operable to process all ISDN signaling events associated with ISDN connections initiated after the new ISDN protocol stack software was activated; and if the functionality identification key of the new ISDN protocol stack software is already active, activate the new ISDN protocol stack software and deactivate the existing ISDN protocol stack software, the new ISDN protocol stack software being an upgrade or replacement of the existing ISDN protocol stack software, the existing ISDN protocol stack software continuing to process all ISDN signaling events

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associated with ISDN connections initiated before the new ISDN protocol stack software was activated, the new ISDN protocol stack software processing all ISDN signaling events associated with ISDN connections initiated after the new ISDN protocol stack software was activated; and remove the existing protocol stack software upon completion of all connections initiated because the new protocol stack software was activated, services provided to the telephony resources being substantially uninterrupted by the modification.

Harjunen et al teaches wherein the interface is an ISDN interface.(See col. 6,lines 31-38).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the interface is an ISDN interface as taught by Harjunen et al in the claimed invention of Atkinson et al in order to enable the introduction of a new piece of software and still maintain the existing connections of the network element (See col. 4, lines 20-24).

Colvin et al teaches wherein the stack management process operable to compare a functionality identification key of the new ISDN protocol stack software with a functionality identification key of the existing ISDN protocol stack software and: if the functionality identification key of the new ISDN protocol stack software is not already active, activate the new ISDN protocol stack software for all future ISDN connections, the new ISDN protocol stack software being entirely new to the system and operable to process all ISDN signaling events associated with ISDN connections initiated after the new ISDN protocol stack software was activated; and if the functionality identification key of the new ISDN protocol stack software is already active, activate the new ISDN protocol stack software and deactivate the existing ISDN protocol stack software, the new ISDN protocol stack software being an upgrade or replacement

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of the existing ISDN protocol stack software, the existing ISDN protocol stack software continuing to process all ISDN signaling events associated with ISDN connections initiated before the new ISDN protocol stack software was activated, the new ISDN protocol stack software processing all ISDN signaling events associated with ISDN connections initiated after the new ISDN protocol stack software was activated; and remove the existing protocol stack software upon completion of all connections initiated because the new protocol stack software was activated, services provided to the telephony resources being substantially uninterrupted by the modification. (See page 5, paragraph [0050]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the stack management process operable to compare a functionality identification key of the new ISDN protocol stack software with a functionality identification key of the existing ISDN protocol stack software and: if the functionality identification key of the new ISDN protocol stack software is not already active, activate the new ISDN protocol stack software for all future ISDN connections, the new ISDN protocol stack software being entirely new to the system and operable to process all ISDN signaling events associated with ISDN connections initiated after the new ISDN protocol stack software was activated; and if the functionality identification key of the new ISDN protocol stack software is already active, activate the new ISDN protocol stack software and deactivate the existing ISDN protocol stack software, the new ISDN protocol stack software being an upgrade or replacement of the existing ISDN protocol stack software, the existing ISDN protocol stack software continuing to process all ISDN signaling events associated with ISDN connections initiated before the new ISDN protocol stack software was activated, the new ISDN protocol stack

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software processing all ISDN signaling events associated with ISDN connections initiated after the new ISDN protocol stack software was activated; and remove the existing protocol stack software upon completion of all connections initiated because the new protocol stack software was activated, services provided to the telephony resources being substantially uninterrupted by the modification as taught by Colvin in the claimed invention of Atkinson et al in order to in order to monitor, meter or audit networked computer (See page 1, paragraph [0015]).

### *Conclusion*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Djenane M. Bayard whose telephone number is (571) 272-3878.

The examiner can normally be reached on Monday- Friday 5:30 AM- 3:00 PM..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharja can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Djenane Bayard

Patent Examiner



**RUPAL DHARIA**  
**SUPERVISORY PATENT EXAMINER**